

United States District Court  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BERKELEY POLICE DEPARTMENT, et al.,

No. C-07-6126 MMC

Plaintiffs,

**ORDER CERTIFYING APPEAL AS NOT  
TAKEN IN GOOD FAITH**

v.

EMANUEL SIMON EL BEY, and MAKARE  
AKHET ATEN SIMON EL BEY,

Defendants

On December 28, 2007, the Court remanded the above-titled action to state court.  
On May 12, 2008, defendants filed a notice of appeal therefrom.

Where a party has been permitted to proceed in forma pauperis in the district court action,<sup>1</sup> that party is not permitted to proceed in forma pauperis on appeal if the district court certifies the appeal is not taken in good faith. See Fed. R. App. P. 24(a)(3).

A notice of appeal must be filed within 30 days of the date of the order being appealed. See Fed. R. App. P. 4(a)(1)(A); see also Browder v. Director, Dep't of Corrections of Illinois, 434 U.S. 257, 264 (1978) (providing requirement that "notice of appeal in a civil case must be filed within 30 days of . . . the order from which the appeal is


<sup>1</sup>By order filed December 13, 2007, the Court granted defendants' application to proceed in forma pauperis.

1 taken" is "mandatory"). Defendants filed the instant notice of appeal more than 130 days  
2 after the December 28, 2007 order of remand. Under such circumstances, the notice of  
3 appeal is plainly untimely and, consequently, the Court hereby certifies that the appeal is  
4 not taken in good faith.

5 The Clerk of the Court is directed to serve a copy of this order on the Ninth Circuit  
6 Court of Appeals.

7 **IT IS SO ORDERED.**

8  
9 Dated: May 15, 2008

  
MAXINE M. CHESNEY  
United States District Judge